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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,336	11/04/2003	John-Paul Francis Cherry	JPC001C1	4922

7590 04/27/2004
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EXAMINER

VAN, QUANG T

ART UNIT PAPER NUMBER

3742

DATE MAILED: 04/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/701,336	Applicant(s) CHERRY, JOHN-PAUL FRANCIS	
	Examiner Quang T Van	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-15 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 11 and 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11-04-03</u> . | 6) <input type="checkbox"/> Other: ____ |

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-2, 4-7, 15 and 17-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 and 13-17 of U.S. Patent No. 6,656,288. Although the conflicting claims are not identical, they are not patentably distinct from each other because the differences between the two sets of claims are that, for example, the claims of the instant application recite "an enclosure disposed at least partially around at least one microwave-safe material for effecting a clean process", whereas the claims of the US Patent No. 6,656,288 merely recite "a dispenser and a wrap disposed at least partially around the dispenser; the dispenser comprising at least one microwave-safe material for effecting cleaning process". Further, the claims of the instant application recite "a cleaning solution comprising a surfactant and compatible with food...", whereas the claims of the US Patent No. 6,656,288 merely recite "an aqueous, surfactant containing, cleaning solution compatible with food preparation". Also, the claims of the instant application recite "an

outlet disposed on the enclosure”, whereas the claims of the US Patent No. 6,656,288 merely recite “the dispenser further comprises an orifice”. The claims of the instant application are merely broader than the claims of the US Patent No. 6,656,288. The claims of the US Patent No. 6,656,288 “anticipate” the application claims. Therefore, the two set of claims are not patentable distinct.

3. Claims 3, 20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6656288 in view of Spector (US 5,007,529). U.S. Patent No. 6656288 discloses substantially all features of the claimed invention except the enclosure comprises at least one material selected from the group consisting of plastic, paper, cardboard, glass, microwave-safe materials and combination thereof. Spector discloses an enclosure (11) comprises at least one material selected from the group consisting of plastic, paper, cardboard, glass, microwave-safe materials and combination thereof (col. 2, lines 43-46). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in U.S. Patent No. 6656288 an enclosure comprises at least one material selected from the group consisting of plastic, paper, cardboard, glass, microwave-safe materials and combination thereof as taught by Spector in order to cover the heating liquid.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 8-10, 12, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by <http://www.mouthshut.com/readreview/10138> (- 1 .html--May 2001), cited by applicant.

Mouthshut.com discloses a maintain and how to clean a microwave oven comprising an enclosure (a microwave-safe bowl) disposed at least partially around a surfactant solution (mild detergents, water) compatible with food preparation; an outlet on the enclosure (bowl's opening) wherein the surfactant solution (mild detergents, water) is in fluid communication to the interior of the microwave oven; and cleaning material for effecting a cleaning process (dam cloth, paper towels).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over <http://www.mouthshut.com/readreview/10138> (- 1 .html--May 2001). Mouthshut.com discloses substantially all features of the claimed invention except the surfactant has a concentration in a range from about 0.5% to about 50%. It would have been obvious to one having ordinary skill in the art to select a surfactant has a concentration in a range from about 0.5% to about 50%. Doing so would provide the sufficient surfactant solution for each cleaning job of the interior of each individual microwave oven.

8. Claims 11 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T Van whose telephone number is 703-306-9162. The examiner can normally be reached on 8:00Am 7:00Pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Pothier can be reached on 703-308-0265. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



QV
April 23, 2004



Quang T Van
Primary Examiner
Art Unit 3742